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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,058	09/26/2001	Joel Van Odom	BS1210/60027.64US01	2756
23552	7590	01/04/2005	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			NGUYEN, DUSTIN	
			ART UNIT	PAPER NUMBER
			2154	
DATE MAILED: 01/04/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/965,058

Applicant(s)

ODOM ET AL.

Examiner

Dustin Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. Claims 1 – 16 are presented for examination.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. The following terms lack antecedent basis:

- I. the querying step - claim 6, line 4.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1, 2 are rejected under 35 U.S.C. 102(e) as being anticipated by Peace [ US Patent No 6,687,260 ].

6. As per claim 1, Peace discloses the invention substantially as claimed including a method of transferring one or more data files to a computer system comprising:

determining whether a clear-to-send flag associated with the computer system is asserted [ Abstract, lines 7-13 ]; and

transferring a data file to the computer system if the clear-to-send flag is asserted [ col 2, lines 36-37 ].

7. As per claim 2, Peace discloses negating the clear-to-send flag after transferring the data file [ col 8, lines 7-9 ].

***Claim Rejections - 35 USC § 103***

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8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 3, 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peace [ US Patent No 6,687,260 ], in view of McKay et al. [ US Patent No 5,844,905 ].

10. As per claim 3, Peace does not specifically disclose receiving a receipt acknowledgement from the computer system indicating that the computer system received the data file; and reasserting the clear-to-send flag in response to receiving the receipt acknowledgement. McKay discloses receiving a receipt acknowledgement from the computer system indicating that the computer system received the data file [ Figure 1; and col 2, lines 38-44 ]; and reasserting the clear-to-send flag in response to receiving the receipt acknowledgement [ i.e. FTS indicators ] [ col 4, lines 41-48 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Peace and McKay because McKay's teaching of acknowledgement would allow adding the confirmation technique to data transmission to the system of Peace to maintain data integrity.

11. As per claim 4, Peace discloses invoking the determining, and transferring steps in response to reasserting the clear-to-send flag [ i.e. continue ] [ Abstract ].

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12. Claims 5-8, 10-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peace [ US Patent No 6,687,260 ], in view of Lewis et al. [ US Patent No 5,619,544 ].

13. As per claim 5, Peace does not specifically disclose  
reading a status file associated with the computer system, wherein the status file includes a file indicator which of the one or more data files should be transferred to the computer system;  
determining a data file to transfer to the computer system based on a file indicator; and  
updating the file indicator to indicate the next file in the sequence of the one or more data files.

Lewis discloses

reading a status file associated with the computer system, wherein the status file includes a file indicator which of the one or more data files should be transferred to the computer system [ col 4, lines 16-33 ];

determining a data file to transfer to the computer system based on a file indicator [ col 6, lines 40-46 ]; and

updating the file indicator to indicate the next file in the sequence of the one or more data files [ i.e. transmit remaining ] [ col 16, lines 18-23 ].

It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Peace and Lewis because Lewis' teaching of file indicator would allow the system of Peace to transfer data as efficiently as possible, without the necessary to retransmit large blocks of words to correct an overrun error [ Lewis, col 3, lines 14-17 ].

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14. As per claim 6, Lewis discloses

receiving an invoking command indicating that another data file is available to be transferred [ col 5, lines 64-66; and col 14, lines 4-8 ]; and  
invoking the querying, determining, and transferring steps [ Abstract ].

15. As per claim 7, it is rejected for similar reasons as stated above in claim 1, 5 and 6.

Furthermore, Peace discloses selecting a first secondary system [ Abstract ].

16. As per claim 8, it is rejected for similar reasons as stated above in claims 4 and 7.

17. As per claim 10, Peace does not specifically disclose depositing a data file into the sequence of data files. Lewis discloses depositing a data file into the sequence of data files [ col 4, lines 60-63 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Peace and Lewis because Lewis' teaching of depositing data file into sequence would allow to add a flow control mechanism to the system of Peace to maintain data transmission in a more efficient manner.

18. As per claim 11, it is program product claimed of claim 7, it is rejected for similar reasons as stated above in claim 7.

19. As per claim 12, it is apparatus claimed of claim 7, it is rejected for similar reasons as stated above in claim 7. Furthermore, Lewis discloses a sequence broker, a transmit broker, and

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a clear-to-send broker [ 32, 34, 37, 39, Figure 2; and col 4, lines 34-49 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Peace and Lewis because the teaching of Lewis would allow the whole system to decompose into smaller functions of hardware/software so that failure of individual function can be easier manage or replace to reduce maintenance time.

20. As per claim 13, it is rejected for similar reasons as stated above in claim 6. Furthermore, Peace discloses a database for receiving and storing the plurality of sequentially ordered data files [ i.e. host memory ] [ 90, Figure 2; and col 8, lines 42-45 ].

21. As per claim 14, Peace does not specifically disclose wherein the clear-to-send module is in operable communication with the sequence broker and the clear-to-send module is operable to send an invoking command to the sequence broker after asserting the clear-to-send flag. Lewis discloses wherein the clear-to-send module is in operable communication with the sequence broker and the clear-to-send module is operable to send an invoking command to the sequence broker after asserting the clear-to-send flag [ col 4, lines 55-col 5, lines 15 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Peace and Lewis because Lewis' teaching would allow to better control and manage data transmission in a communication network.

22. As per claim 15, Peace discloses the primary system is in operable communication with the secondary systems via a communications network [ Figure 1; and col 1, lines 35-48 ].



23. As per claim 16, Peace wherein the communications network is the Internet [ col 1, lines 18-21 ].

24. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peace [ US Patent No 6,687,260 ], in view of Lewis et al. [ US Patent No 5,619,544 ], and further in view of McKay et al. [ US Patent No 5,844,905 ].

25. As per claim 9, Peace and Lewis do not specifically disclose retrieving secondary system data associated with the first secondary system, wherein the secondary system data includes a data file indicator indicating which of the sequence of data file is to be transferred to the first secondary system. McKay discloses retrieving secondary system data associated with the first secondary system, wherein the secondary system data includes a data file indicator indicating which of the sequence of data file is to be transferred to the first secondary system [ Figure 2; and col 3, lines 47-col 4, lines 13 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Peace, Lewis and McKay because the teaching of McKay would prevent interference of data transmission to improve network performance.

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26. A shortened statutory period for response to this action is set to expire **3 (three) months and 0 (zero) days** from the mail date of this letter. Failure to respond within the period for response will result in **ABANDONMENT** of the application (see 35 U.S.C 133, M.P.E.P 710.02, 710.02(b)).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dustin Nguyen whose telephone number is (571) 272-3971. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached at (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dustin Nguyen

Examiner

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SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100